

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANDRE KITTRELL,
Plaintiff,

v.

BARRY SMITH, *et al.*,
Defendants.

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CIVIL ACTION NO. 23-CV-0811

ORDER

AND NOW, this **30th day of November 2023**, upon consideration of Defendant Dov Bader, M.D.'s Motion to Dismiss (ECF No. 44),¹ it is hereby **ORDERED** that the Motion is **GRANTED**. The following is further **ORDERED**:

1. The Section 1983 deliberate indifference claim against Defendant Bader is **dismissed without prejudice** to file an Amended Complaint **on or before January 16, 2024**. If no Amended Complaint is filed by that date, the Court will consider that claim dismissed with prejudice;
2. The medical malpractice claim against Defendant Bader that relates to Plaintiff's knee condition is dismissed with prejudice, as amendment would not cure Plaintiff's failure to file the requisite certificate of merit within the Court-ordered deadline;
3. The Clerk of Court is instructed to terminate Defendant Dov Bader, M.D.

BY THE COURT:

/s/ **Chad F. Kenney**

CHAD F. KENNEY, JUDGE

¹ Plaintiff has not filed an Opposition in Response to the Motion. Plaintiff's filing at ECF No. 46 appears to be a response to Defendants Jamie Oliver and Terri Sechrengost's (collectively "Commonwealth Defendants") Answer at ECF No. 36.